



THE CITY OF SAN DIEGO

August 24, 1999

Judge Wayne Peterson
Presiding Judge of the Superior Court
San Diego County Grand Jury
220 W. Broadway
San Diego, CA 92101

Dear Judge Peterson:

Subject: **Response to the San Diego County Grand Jury 1998-1999 Report:**
"Implementation of the Multiple Species Conservation Program"

This letter of comment on the findings and recommendations of the subject report, "Implementation of the Multiple Species Conservation Program" (MSCP) is provided to your office pursuant to California Penal Code Sec. 933(c). The City of San Diego was specifically instructed to comment on Recommendations 99-97, 99-101, 99-102 and 99-103. The Grand Jury's findings are listed below, with the City's comments following.

Findings No. 1, 4, and 6-10:

- 1) *It is unrealistic for the City of San Diego or the City of Chula Vista to rely on the local regional funding source. Given present circumstances, the measure will not be on the ballot before 2002.*
- 4) *The fact that it costs the City of San Diego significantly more than it does other jurisdictions to manage the MSCP lands leads to inequity in the costs of preserving the habitat, which is a regional resource.*
- 6) *In order for the MSCP to be effective, state and federal cooperation is necessary. The County, the City of San Diego, and Poway all report that to date, this cooperation has been excellent. The federal and state governments have set aside some lands for conservation, according to MSCP guidelines. They have also contributed to the MSCP by distributing grants to local government agencies and private wildlife organizations for acquisition and the management of MSCP lands.*
- 7) *Federal and state grants for MSCP are available, generally on a matching fund basis. Thus, local funding for MSCP becomes critical. Those jurisdictions which have money available can leverage their money through matching grants.*
- 8) *The County, the City of San Diego, and Poway have appropriate administrative procedures within their planning and building departments which ensure that the issuance of development permits complies with the MSCP.*
- 9) *The County, the City of San Diego, and Poway are using innovative and effective methods to acquire land through the development process.*
- 10) *The County, the City of San Diego, and Poway have made significant progress in setting aside publicly owned lands for MSCP. The City has set aside 12,759 acres, the County 5,956 acres, and Poway 3,780 acres.*

Comment: The City of San Diego agrees with the findings of the County Grand Jury Report with the exception of Finding No. 1. As detailed in the comments to Recommendations 99-97 and 99-102, the feasibility of a ballot measure before 2002 for local regional funding is still under evaluation.



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Recommendation 99-97: *The City of San Diego should honor its commitment to the MSCP and provide a reliable and adequate funding source for the program in the 1999-2000 budget year and beyond. The money budgeted should be enough to cover the cost of acquiring the necessary land, based on a 30-year program.*

Comment: The City of San Diego agrees with this recommendation and is fully committed to the successful implementation of the Implementing Agreement by and between the United States Fish and Wildlife Service, California Department of Fish and Game and the City of San Diego. The MSCP funding component is fully enforceable by the federal and state government through terms and conditions included in the permits issued by the federal and state governments as well as the contractual obligations and remedies contained in the Implementing Agreement

The City, in cooperation with an adhoc coalition known as the Five County Funding Group (the Counties of San Diego, Orange, Riverside and San Bernardino, the City of Palo Verde, SANDAG, The Nature Conservancy, The Trust for Public Lands, the Building Industry Association and local environmental organizations), is actively supporting State Senator Hayden's Park Bond bill (SB 57). If passed by the state legislature and approved by the voters, SB 57 is expected to provide up to \$340 million to fund Natural Communities Conservation Programs (NCCPs) and related projects. The MSCP was developed in accordance with requirements of the NCCP Act of 1991 and is recognized as an NCCP Plan by the California Department of Fish and Game.

The specific recommendation that the annual budgeted source for implementation of the MSCP should include funds sufficient to cover the land acquisition cost of the MSCP may not be necessary. The City, by the end of calendar year 2000, will have met its obligations for land acquisitions by acquiring 2,400 acres of private property as estimated in Sec. 11.1 of the Implementing Agreement.

The San Diego City Council approved in February 1999 the allocation of \$17.07 million in State Tobacco Settlement payments to improve the City's parks and open spaces, including the MSCP. In addition, the FY 2000 budget was approved with \$1.0 million for MSCP land acquisition.

Action: The City of San Diego is currently implementing the recommendation as described above. It is anticipated that future annual budget allocations will be made as necessary and appropriate to fulfill the City's obligations. These future budget allocations, if any, will depend upon the results of a public vote on SB 57 as well as establishment of a local regional funding source.

Recommendation 99-101: *The San Diego City Council, the San Diego County Board of Supervisors, the City Councils of Chula Vista, Poway, and Santee, and the Board of Directors of the Otay Water District should continue to work with state and federal governments to ensure the success of the MSCP.*

Comment: The City of San Diego agrees. Through the City's lobbying activities, the MSCP Implementation Coordinating Committee (ICC), the MSCP Habitat Management Technical Committee (HMTTC) and the Five County Funding Group, the City will continue to develop strong partnerships with local participating jurisdictions and the state and federal governments.

Action: The City of San Diego is currently implementing the recommendation as described above. Both the Implementation Coordinating Committee and the Habitat Management Technical Committee have been formed and operating since 1997 pursuant to Sections 5.8.2 and 5.8.3 of the Final MSCP Plan. The ICC is co-chaired by senior City and County staff who are responsible for implementing the MSCP for their respective agencies. After meeting monthly for the first year, the ICC now meets quarterly.

The HMTC is co-chaired by the head of the San Diego National Wildlife Refuge and a County Parks employee. The HMTC is designed to afford on-the-ground managers a forum for sharing information about common issues and solutions relating to management of MSCP lands. The HMTC operates under the policy direction of the ICC.

The Five County Funding Group meets monthly and is facilitated by The Nature Conservancy. The Funding Group allows the five southern California Counties to coordinate their lobbying activities for critical state and federal funding for the various NCCP programs including the MSCP.

***Recommendation 99-102:** The San Diego City Council, the San Diego Board of Supervisors, the City Councils of Chula Vista, Coronado, Del Mar, El Cajon, La Mesa, Poway, and Santee, and the Board of Directors of the Otay Water District should identify an existing organization or create a new organization to determine an equitable means of funding the long-term management of MSCP lands. This means of funding should not be reliant on the proposed local regional funding source. It should be funds from each participating jurisdiction based on acreage, population, and/or other criteria which the jurisdictions identify. In addition to determining the funding for management of the land, participating jurisdictions should identify an existing organization or create a new organization for the allocation of management funds.*

Comment: The City of San Diego agrees that when a local regional funding source has been established the elected decision-making bodies of each participating jurisdiction should consider the appropriate structure for equitably funding and allocating the management funds based on objective criteria. However, the MSCP Financing Plan and Section 7.0 of the Final MSCP Plan (Financing Habitat Acquisition and Management) were developed with the specific inclusion of management costs in the local regional funding source. Therefore, the City does not agree with the portion of this recommendation which concludes funding for long term management should not rely on a local regional funding source.

The City's federal 10a permit and Implementing Agreement are severable from other jurisdictions. In the event that a local regional funding source is not established, the City is obligated to consider a funding mechanism for management of those MSCP lands which are under the jurisdiction and/or control of the City. At this point in time, however, it is premature and contrary to Sec. 11.2 of the Implementing Agreement to rule out a local regional funding source.

Action: In addition to the efforts to have the State Park Bond measure placed on the March or November 2000 ballot as described in the comments to Recommendation 99-97, the City of San Diego is evaluating every possibility for establishing a local regional funding source pursuant to Sec. 11.2 of the IA. The City of San Diego is committed to establishing a local regional funding strategy within the timeframe and requirements we have agreed to under the Implementing Agreement.

***Recommendation 99-103:** The City of San Diego, as the lead agency for the MSCP, should provide the leadership for recommendation number 99-102.*

Comment: The City of San Diego agrees. As with the effort to formulate and adopt the MSCP Plan, the City's leadership in establishing the local regional funding source is important.

Action: See Action under Recommendation 99-102.

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Questions or requests for additional information should be directed to:

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202 'C' St., MS 5A
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We trust that our comments are fully responsive to the requirements and instructions as described in pages 8 and 9 of the Grand Jury Report.

Sincerely,



Michael Uberuaga
City Manager

MU:TTS:sa

cc: Mayor Susan Golding
City Council Members
Les Girard, Assistant City Attorney, Special Projects
Tina Christiansen, Director of Economic Development & Community Services
Penelope Culbreth-Graft, Assistant City Manager
Gail Goldberg, City Planner
Tom Story, Deputy Director, Planning & Development Review
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